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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,587	08/20/2001	Lindsay T. Atwood	78378-018	6857

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HUSCH & EPPENBERGER, LLC
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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,587

Applicant(s)

ATWOOD, LINDSAY T.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 50-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 50-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/13/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-44 and 50-56 have been examined. Application 09/933,587 has a filing date 08/20/2001 Claims Priority from Provisional Application 60266206 (02/01/2001).

Response to Amendment

2. In response to Notice to the applicant regarding a Non-Compliant Amendment filed 02/27/2006, the Applicant filed an Amendment on 03/06/2006 which overcame the Non-compliant Notice.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-17 are rejected under 35 U.S.C. 101 because based on the theory that the claim is directed to neither a "method" nor a "system," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. *Id.* at 1551.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. A single claim which claims both a system and the method steps of using the system is indefinite under 35 U.S.C. 112, second paragraph.

In Ex parte Lyell, 17. USPQ2d 1548 (Bd. Pat. App. & Inter. 1990)

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-10, 12-24 and 50-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Spears (US 2002/0128879).

As per claim 1, Spears teaches:

A method of facilitating the provision of services to individuals, said method comprising the steps of

(a) establishing a services facilitator (see figure 2, "health portal");

(b) establishing a first information-sharing relationship between said services facilitator and an organization having a plurality of members, wherein at least some of said plurality of members need certain services (see paragraphs 91 and 146);

(c) establishing a second information-sharing relationship between said services facilitator and at least one services provider that provides said certain services (see paragraph 146);

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(d) fielding at least one inquiry from at least one member of said plurality of members (see paragraph 146); and

(e) referring said at least one member to said at least one services provider based upon said at least one inquiry (see paragraph 146).

As per claim 2, Spears teaches:

The method of claim 1, wherein said services facilitator is an entity separate from said organization and from said at least one services provider (see figure 2, "Health portal").

As per claim 3, Spears teaches:

The method of claim 1, wherein said organization is one of a health plan and a corporation (see paragraph 92).

As per claim 4, Spears teaches:

The method of claim 1, wherein said certain services comprise health services (see paragraph 146).

As per claim 5, Spears teaches:

The method of any one of claims 1, 3, and 4, wherein said step (b) further comprises establishing a discounted prices program for said certain services (see paragraph 140); and

offering said discounted prices program to said organization in exchange for access to contact information for said plurality of members (see paragraph 91).

As per claim 6, Spears teaches:

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The method of claim 5, wherein said step (b) further comprises offering said discounted prices program to said organization with no monthly premium or access fees (see paragraphs 174-175).

As per claim 7, Spears teaches:

The method of any one of claims 1, 3, and 4, wherein said step (b) further comprises providing at least one of the following services to said organization in exchange for access to contact information for said plurality of members: marketing, administration, and pre-screening (see paragraph 140).

As per claim 8, Spears teaches:

The method of claim 1, wherein said step (c) further comprises providing at least one of the following services to said at least one services provider in exchange for an agreement from said services provider to provide said certain services at discounted prices: marketing, administration, and pre-screening (see paragraph 140).

As per claim 9, Spears teaches:

The method of claim 8, wherein said method further comprises the step of marketing said certain services to said plurality of members (see paragraph 140).

As per claim 10, Spears teaches:

The method of claim 8, wherein said marketing step further comprises said organization endorsing said certain services offered by said at least one services provider (see paragraph 148).

As per claim 12, Spears teaches:

The method of claim 1, wherein said method further comprises said services facilitator administering a communication system that links said services facilitator to said at least one services provider and to said at least one member (see figure 2).

As per claim 13, Spears teaches:

The method of claim 12, wherein said communication system comprises a first communication system that links said services facilitator to said at least one services provider (see figure 2); and

a second communication system that links said services facilitator to said at least one member; and wherein said administering step further comprises said services facilitator operating said first communication system (see figure 2);

operating said second communication system (see figure 2);

monitoring said second communication system for said at least one inquiry from said at least one member (see paragraph 146);

fielding said at least one inquiry from said at least one member (see paragraph 146); and

directing said at least one member to said at least one services provider based upon said at least one fielded inquiry (see paragraph 146).

As per claim 14, Spears teaches:

The method of claim 13, wherein said first communication system is different from said second communication system (see figure 2).

As per claim 15, Spears teaches:

The method of claim 13, wherein said operating said second communication system step further comprises establishing an in-house telephonic communications center capable of receiving at least one of telephone calls and facsimile transmissions from said plurality of members (see paragraph 148).

As per claim 16, Spears teaches:

The method of claim 13, wherein said operating said second communication system step further comprises establishing a cooperative relationship with at least one overflow telephonic communications center capable of receiving at least one of telephone calls and facsimile transmissions from said plurality of members (see paragraph 148).

As per claim 17, Spears teaches:

The method of any one of claims 15 and 16, wherein said operating said second communication system step further comprises assigning a unique telephonic communications number to said organization (see paragraph 148); and

announcing said unique telephonic communications number to said plurality of members (see paragraph 148).

As per claim 18, Spears teaches:

A method of facilitating the provision of health services to individuals, said method comprising the steps of

- (a) establishing a health services facilitator (see figure 2, "Health portal");
- (b) establishing a first information-sharing relationship between said health services facilitator and an organization having a plurality of members, wherein at least

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some of said plurality of members need certain health services (see paragraphs 91 and 146) ;

(c) establishing a second information-sharing relationship between said health services facilitator and at least one health services provider that provides said certain health services (see paragraph 146);

(d) fielding at least one inquiry from at least one member of said plurality of members (see paragraph 146);

(e) referring said at least one member to said at least one health services provider based upon said at least one inquiry (see paragraph 146); and

(f) administering a Web-based system that links said health services facilitator to said at least one health services provider (see figure 2).

As per claim 19, Spears teaches:

The method of claim 18, wherein said Web-based system enables said health services facilitator to do at least one of the following tasks: fielding said at least one inquiry from said at least one member, scheduling an appointment for said at least one member, and tracking outcomes of said certain health services provided to said at least one member (see paragraphs 146 and 148).

As per claim 20, Spears teaches:

The method of claim 18, wherein said Web-based system further links said health services facilitator to said plurality of members in real time (see paragraph 89).

As per claim 21, Spears teaches:

The method of claim 18, wherein said Web-based system further links said health services facilitator to said at least one health services provider in real time (see paragraph 101).

As per claim 22, Spears teaches:

The method of claim 18, wherein said administering step further comprises operating an in-house call center capable of receiving telephonic communications from said plurality of members (see paragraph 148).

As per claim 23, Spears teaches:

The method of claim 22, wherein said administering step further comprises establishing a cooperative relationship with at least one overflow call center capable of receiving telephonic communications from said plurality of members (see paragraph 148).

As per claim 24, Spears teaches:

The method of claim 23, wherein said Web-based system further links said health services facilitator to said in-house call center and to said at least one overflow call center in real time (see paragraph 148).

As per claim 50, Spears teaches:

The method of claim 18, wherein said step of administering said Web based system further comprising the steps of:

establishing a site on a global communication network (see figure 2);

providing a central server connected to said site on said global communication network, said central server accessing a dynamic database (see figure 3);

recognizing an active scheduler (see paragraph 148);

prompting said active scheduler with information stored by said central server to collect information for a plurality of fields within said dynamic database (see paragraph 148);

receiving said collected information from said active scheduler; processing said collected information by said central server (see paragraph 148); and

updating said dynamic database to reflect said collected information prior to recognizing a second active scheduler (see paragraph 148).

As per claim 51, Spears teaches:

The method of claim 50, wherein said active scheduler is at least one of a call center, a clinic, and an administrator (see paragraph 148).

As per claim 52, Spears teaches:

The method of claim 50, wherein said prompting said active scheduler step further comprises presenting scripted statements to said active scheduler, said scripted statements being stored by said central server and transferred from said central server over said global communication network to said active scheduler (see paragraph 148).

As per claim 53, Spears teaches:

The method of claim 18, wherein said Web-based system enables said health services facilitator to schedule appointments for said at least one member and compile statistical data (see paragraph 148).

As per claim 54, Spears teaches:

The method of claim 53, wherein the step of administering a Web-based system that enables said health services facilitator to schedule appointments for said at least one member and compile statistical data further comprises the steps of-

establishing a site on a global communication network (see figure 2);

providing a central server connected to said global communication network, said central server having a dynamic database (see figure 2);

recognizing at least one of a call center, a clinic, and an administrator as an active scheduler (see paragraph 148);

prompting said active scheduler to collect information for a plurality of fields within said dynamic database (see paragraph 148);

receiving collected information from said active scheduler (see paragraph 148);

storing said collected information (see paragraph 148);

updating said dynamic database to reflect said collected information prior to recognizing a second active scheduler (see paragraph 148),

scheduling appointments based upon said collected information and making details concerning said scheduled appointments selectively available over said global communication network (see paragraph 148); and

compiling statistical data in real time based upon said collected information and making details concerning said compiled statistical data selectively available over said global communication network (see paragraphs 152-153).

As per claim 55, Spears teaches:

The method of claim 20, wherein said Web-based system further links said at least one health services provider to said health services facilitator and said plurality of members to provide scheduling of appointments, to pre-qualify members for specific services, and to compile statistical tracking data (see paragraph 148).

As per claim 56, Spears teaches:

The method of claim 55, wherein said Web-based system comprises:

a central server having a predetermined set of prompts and being capable of storing scheduling information, pre-qualifying information, and statistical tracking data pertaining to said at least one health services provider, said health services facilitator, and said plurality of members in a database (see paragraph 148);

a communication link allowing transfer of said scheduling information, pre-qualifying information, and statistical tracking data between at least one of said plurality of members and at least one of said health services facilitator and said at least one health services provider (see paragraphs 152-153); and

at least one remote communication terminal connected to said central server through a global computer network on which said at least one health services provider and said health services facilitator receive said predetermined set of prompts from said central server and enter said pre-qualifying information, said scheduling information, and said statistical tracking data obtained from said at least one of said plurality of members through said communication link or independently entered by said at least one health services provider and said health services facilitator in response to said predetermined set of prompts (see paragraph 146).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11 and 25-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spears (US 2002/0128879).

As per claim 11, Spears teaches:

The method of claim 1, does not expressly teach wherein said at least one services provider is at least one of a laser care provider and an optical store. However, the type of service provider (i.e. general provider or a laser care provider) would only be found in the nonfunctional descriptive material and would not alter the participation of providers in the Spears' health discount network. Thus, this descriptive material (i.e. type of doctor) will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the type of provider who participates in the Spears' health network would not patentably distinguish the claimed invention from the prior art.

As per claim 25, Spears teaches:

The method of claim 18, but does not expressly teach wherein said certain health services comprise performing laser vision correction, and wherein said at least one

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health services provider is a laser care provider. However, the same rejection applied to claim 11 is also applied to claim 25.

As per claim 26, Spears teaches:

The method of claim 25, but does not expressly teach wherein said laser care provider is at least one of a laser vision correction center and an independent refractive surgeon. However, the same rejection applied to claim 11 is also applied to claim 26.

As per claim 27, Spears teaches:

The method of claim 25, wherein said communication system further comprises a customer service center capable of receiving telephonic communications from said plurality of members; wherein said Web-based system links said health services facilitator to said customer service center; and wherein said administering step further comprises operating said customer service center (see paragraph 148).

As per claim 28, Spears teaches:

The method of claim 27, wherein said customer service center is at least one of an in-house call center and an overflow call center (see paragraph 148).

As per claim 29, Spears teaches:

The method of claim 27, wherein said Web-based system enables one of said customer service center and said health services provider to do at least one of the following tasks: fielding questions from said plurality of members, pre-screening said plurality of members, and scheduling appointments (see paragraph 117).

As per claim 30, Spears teaches:

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The method of claim 29, wherein said Web-based system enables one of said customer service center and said health services provider to track outcomes from procedures (see paragraph 152). Spears does not expressly that said procedures are laser vision correction procedures. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 30.

As per claim 31, Spears teaches:

The method of claim 25, wherein said step (c) further comprises providing at least one of the following services to said provider in exchange for an agreement from said laser care provider to perform laser vision correction at discounted prices: marketing, administration, and pre-screening (see paragraph 146). Spears does expressly teach that said provider is a laser care provider. However the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 31.

As per claim 32, Spears teaches:

The method of claim 25, wherein said step (c) further comprises said health services facilitator providing the following services to said provider in exchange for an agreement from said provider to perform procedures at discounted prices:

generating marketing materials for a procedure program; distributing said marketing materials to said plurality of members (see paragraph 140, 148);

receiving real-time available-appointment information from said provider via said Web-based system (see paragraph 148);

pre-screening said at least one of member to determine that said at least one member is a potential customer for said certain health services (see paragraph 139);

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collecting information about said at least one member (see paragraph 139);

receiving a deposit from said at least one member for said services (see paragraph 152); and scheduling a screening examination for said at least one member directly with said provider via said Web-based system based upon said real-time available appointment information (see paragraph 148). Spears does not expressly teach a lens care provider. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 32.

As per claim 33, Spears teaches:

The method of claim 32, wherein said step (c) comprises said health services facilitator educating said plurality of members on providers in further exchange for said agreement from said provider to perform services at discounted prices (see paragraph 139, 146). Spears does not expressly teach laser vision correction services. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 33.

As per claim 34, Spears teaches:

The method of claim 32, wherein said step (c) comprises said health services facilitator providing the following further services to said provider in exchange for said agreement from said provider to perform correction at discounted prices:

tracking completed correction procedures, cancellations, reasons for cancellations, surgical outcomes, and statistical data (see paragraphs 152-153);

creating utilization reports based upon said tracking (see paragraphs 152-153);
and

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screening for medical conditions that may affect stability of correction (see paragraph 139). Spears does not expressly teach laser care provider. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 34.

As per claim 35, Spears teaches:

The method of claim 32, wherein said collecting information about said at least one member step further comprises pre-screening said at least one member for medical conditions that may affect suitability of said at least one member for correction (see paragraph 139). Spears does not teach that said correction is laser care correction. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 35.

As per claim 36, Spears teaches:

The method of claim 32, but does not teach wherein said marketing materials offer an enhancement warranty comprising discounted follow-up procedures assuming said at least one member has annual eye exams with a participating eye care provider. However, Official Notice is taken that it is old and well known in the business art to send promotions regarding discounted follow up procedures. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Spears would send members alerts indicating discounts regarding follow-up procedures in order to give said members an incentive to participate in the Spears system.

As per claim 37, Spears teaches:

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The method of claim 25, wherein said service is performed according to a program, wherein said program comprises the following steps:

said health services facilitator establishing a discounted prices program with said provider (see paragraphs 146);

said health services facilitator offering said discounted prices program to said organization in exchange for access to contact information for said plurality of members (see paragraphs 91 and 146); said health services facilitator generating marketing materials for said discounted prices program (see paragraph 146);

said health services facilitator distributing said marketing materials to said plurality of members (see paragraph 146);

said provider furnishing available-appointment information to said health services facilitator via said Web-based system in real time (see paragraph 148);

said health services facilitator receiving said available-appointment information in real time (see paragraph 148);

said health services facilitator pre-screening said at least one member to determine that said at least one member is a potential customer for said services (see paragraph 139);

said health services facilitator collecting information about said at least one member (see paragraph 153);

said health services facilitator receiving a deposit from said at least one member for said services (see paragraph 152);

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said health services facilitator scheduling a screening examination for said at least one member directly with said provider via said Web-based system based upon said real-time available-appointment information (see paragraphs 148 and 152); and

said provider performing said screening examination (see paragraph 152).

Spears does not teach that said provider is a laser vision correction provider. However, the same rejection applied to claim 11 regarding this missing limitation is also applied to claim 37.

As per claim 38, Spears teaches:

The method of claim 37, but does not expressly teach wherein said laser vision correction program further comprises the following steps: said laser care provider determining from said screening examination that said at least one member is ineligible for laser vision correction; said laser care provider entering ineligibility information into said Web-based system; and said health services facilitator refunding said deposit to said at least one member. However, Official Notice is taken that it is old and well known in the health art that providers need to check for patient's eligibility information before performing a procedure in said patient in order that said providers are not charged with malpractice. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a provider would check for patient's eligibility before giving an appointment to said patient in order that said provider avoid being charged with malpractice, and if said patient is not eligible to be treated by said provider, said provider would return any money paid by said patient to said provider.

As per claim 39, Spears teaches:

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The method of claim 37, but does not expressly teach wherein said laser vision correction program further comprises the following steps:

said laser care provider determining from said screening examination that said one member is eligible for laser vision correction; said laser care provider entering eligibility information and surgical data into Web-based system; said laser care provider collecting a balance due for said laser vision correction; and said laser care provider performing said laser vision correction. However, Official Notice is taken that it is old and well known in the health art that all providers need to check for patient's eligibility information before performing any procedure to said patient in order that said provider avoid being charged with malpractice. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that if a patient is eligible for a procedure, the doctor that would perform said procedure would bill said patient the balance due for said procedure before performing said procedure in order that said doctor get pay for his services.

As per claim 40, Spears teaches:

The method of claim 39, teach wherein said laser vision correction program further comprises the following steps:

said provider entering post-correction data into said Web-based system; and said provider entering follow-up, post-correction data into said Web-based system (see paragraph 152). Spears does not teach that said provider is a laser care provider. However, the same rejection applied to claim 11 is also applied to claim 40.

As per claim 41, Spears teaches:

The method of claim 39, but does not expressly teach wherein said laser care provider enters said follow-up, post-correction data into said Web-based system at predetermined intervals. However, the same rejection applied to claim 40 regarding this missing limitation is also applied to claim 41.

As per claim 42, Spears teaches:

The method of claim 41, but does not expressly wherein said predetermined intervals include within one month of said laser vision correction, within three months of said laser vision correction, and within six months of said laser vision correction. However, Official Notice is taken that it is old and well known in the health art that prescribers enter follow up procedures of patients in a time interval for said procedures. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Spears' providers would enter follow up procedures in a time interval for the purpose of determine the type of information and discount to provides to patients at said time intervals.

As per claim 43, Spears teaches:

The method of any one of claims 37 and 39, but does not expressly teach wherein said laser vision correction program further comprises the following steps: said health services facilitator offering an enhancement warranty; and said laser care provider honoring said enhancement warranty. However, the same rejection applied to claim 36 is also applied to claim 43.

As per claim 44, Spears teaches:

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The method of claim 43, but does not expressly teach wherein said enhancement warranty comprises discounted follow-up procedures for said at least one member assuming said at least one member has an annual eye exam with a participating eye care provider. However, the same rejection applied to claim 36 regarding this missing limitation is also applied to claim 44.

Conclusion

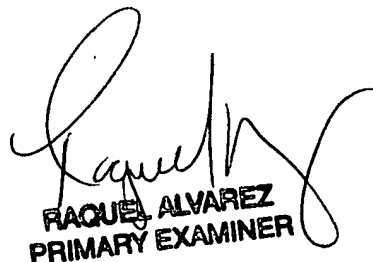
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra
May 15, 2006



RAQUEL ALVAREZ
PRIMARY EXAMINER